IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4127 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VELJIBEN @ GAGABEN WD/O BALSINH GAMJIBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4127 of 1999

MR MUKESH R SHAH for Petitioner No. 1-4

MR PR ABICHANDANI, AGP for Respondent No. 1

MR PARESH UPADHYAY for Respondent No. 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 17/08/2001

ORAL JUDGEMENT

Leave to delete respondent No. 2 - Motor Accident Claims Tribunal (Main), Panchmahals at Godhra.

Rule. Mr PR Abichandani, learned AGP for the State of Gujarat and Mr Paresh Upadhyay, learned counsel for the Registrar of this Court on the administrative side waive service of Rule.

2. The four petitioners herein are widows of

unfortunate victims of four different motor vehicle accidents which took place in Panchmahals District. The petitioners have filed Motor Accident Claim Petition Nos. 494/88, 412/90, 1473/92 and 382/94 respectively. All the four claim petitions are filed before the Motor Accident Claims Tribunal, Panchmahals at Godhra.

3. The grievance in this petition is that the petitioners' claim petitions have not been heard and decided so far because their claim petitions are listed before the Motor Accident Claims Tribunal (Main) (hereinafter referred to as "the Main Tribunal") which is presided over by the learned District Judge of Panchmahals District; since the learned District Judge has to hear and decide the cases of various other categories including sessions cases and civil appeals, the Main Tribunal is not in a position to take up the claim petitions although they have been pending for the last more than 10 to 13 years. It is contended by the petitioners that the Motor Accident Claims Tribunals (Auxiliary), Panchmahals at Godhra (hereinafter referred to as "the Auxiliary Tribunals") are in a position to take up the claim petitions which are filed long after the petitioners filed their respective claim petitions, because such Auxiliary Tribunals are not burdened with as heavy workload as the Court of the learned District Judge (who is presiding over the Main Tribunal) is burdened with. It is stated that even the Motor Accident Claim Petitions of 1996 and 1997 are heard and decided by the Auxiliary Tribunals, but the Main Tribunal presided over by the learned District Judge is not in a position to take up the claim petitions of 1988, 1990 and 1992 because of heavy workload.

On making inquiries, the petitioners learnt through their learned advocate that the State Government in the Home Department has issued notification dated 31.12.1994 (Annexure "B") prescribing the procedure for constitution of the Motor Accident Claims Tribunals in the Districts and for the city of Ahmedabad. In this petition, we are concerned with only clause (v) thereof, which reads as under :-

> "(v). Where more than one application for compensation arising out of an accident are made before more than one Tribunal all such applications shall be transferred to and adjudicated upon by the Claims Tribunal (Main)."

4. The learned counsel for the petitioners submitted that where there are more than one claim petition arising

from the same accident, all such claim petitions are required to be adjudicated upon by the Main Tribunal and, therefore, the learned District Judge presiding over the Main Tribunal pleads his inability to transfer such claim petitions to the Auxiliary Tribunals even though such claim petitions are very old and have been pending for more than 10 years and the claim petitions of subsequent years are being disposed of by the Auxiliary Tribunals.

5. In response to the notice, Mr PR Abichandani, learned AGP appeared for the State of Gujarat and Mr Paresh Upadhyay, learned counsel appeared for the Registrar of this Court on the administrative side.

6. The learned AGP submitted that when the same accident gives rise to more than one claim petition, if such claim petitions are heard by two different Tribunals, there would be a possibility of conflict of decisions and, therefore, the impugned clause in the notification provides that all such applications shall be transferred and adjudicated upon by the Main Tribunal.

7. The Court inquired from the learned AGP as to how the above purpose would be defeated if the Claims Tribunal (Main) is allowed to transfer all the claim petitions arising from the same accident to the same Auxiliary Tribunal. The purpose of ensuring that the claim petitions be heard by the same Tribunal so as to avoid any conflict of decisions could as well be served by the assignment of all the claim petitions arising from the same accident to the same Tribunal, whether Auxiliary or Main.

The learned AGP thereupon submitted that the State Government could have no objection to such a course being adopted. Mr Upadhyay, learned counsel appearing for the Registrar of this Court on the administrative side also agreed that there could be no objection to such a course being adopted. Mr Upadhyay further submitted that the Main Tribunal should be allowed to exercise discretion to decide whether such claim petitions should be heard by the Main Tribunal or by an Auxiliary Tribunal, as the workload of the Main Tribunal as well as the Auxiliary Tribunals in different districts is bound to vary and the Main Tribunal would be the best authority to decide which Tribunal, whether main or auxiliary, should decide such claim petitions arising from the same accident.

8. In view of the aforesaid consensus, this petition

is disposed of without quashing or setting aside the impugned notification dated 31.12.1994 (Annexure "B"), but with a direction to respondent No. 1 to make the following modification in clause (v) of the said notification :-

the full stop after the words "the Claims Tribunal (Main)" be converted into a comma and the following words be added thereafter :-

"or by such claims Tribunal (Auxiliary) under its administrative control to which such applications may be transferred by the Claims Tribunal (Main)"

or the words conveying the same meaning.

9. The learned AGP states, under instructions from Mr Sureshchandra Keshavlal Bhavsar, Under Secretary (Transport) to the Government of Gujarat in the Home Department, that the aforesaid direction shall be carried out within one month from today.

10. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.S. Shah, J.)
sundar/-